

**STATEMENT OF
COMMISSIONER KEVIN J. MARTIN
APPROVING IN PART, CONCURRING IN PART**

Re: Complaints Against Various Television Licensees Concerning Their February 1, 2004, Broadcast of the Super Bowl XXXVIII Halftime Show, Notice of Apparent Liability for Forfeiture

I write separately to express two concerns.

First, hundreds of thousands of viewers across the country filed complaints asking us to find various aspects of the Super Bowl halftime show indecent. Some even complained that the whole show was indecent. This Notice, however, analyzes only one segment of the show. We have a duty to the public to fully analyze all of the complaints that we receive.¹

Second, as I have said before, we need to affirm local broadcasters' ability – and responsibility – to reject inappropriate programming.² This obligation is critical to local broadcasters' ability to keep coarser network programming off the air in their communities. The network affiliates asked us to clarify that this right over three years ago. We still have not acted, and thus I concur in the decision not to fine the affiliates in this instance.

¹ Note 6 of the Notice acknowledges that “[s]ome of the complainants also object to other material in the Super Bowl broadcast,” but then concludes in two sentences that examples of such material were not indecent.

² See Written Statement of Commissioner Kevin J. Martin, Before the Committee on Commerce, Science and Transportation at 4 (February 2004), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-243865A2.doc. See also Petition for Inquiry into Network Practices, filed by Network Affiliated Stations Alliance (March 2001); Motion for Declaratory Ruling, filed by Network Affiliated Stations Alliance (June 2001).